

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JESSE RUSSELL SIMPSON,

Petitioner,

v.

Civ. Action No. 1:19-CV-68
(Kleeh)

C. GOMEZ, Warden,

Respondent.

AMENDED MEMORANDUM OPINION AND ORDER

On March 19, 2020, the Court entered a *Memorandum Opinion and Order Adopting in Part and Rejecting in Part Preliminary Report and Recommendation [ECF No. 27]*, docketed at ECF No. 34, in which the Court denied without prejudice Petitioner's claims in Grounds Four and Five relating to wrongful disciplinary actions and good credit time. The Court hereby **AMENDS** that order and **DENIES WITH PREJUDICE** those claims, thereby **ADOPTING** rather than rejecting the R&R on this issue.

The Court finds that Petitioner's challenges are properly raised in a § 2241 petition and are not Bivens claims. See Bates v. Saad, No. 5:16CV161, 2018 WL 1287416, at *5 (N.D.W. Va. Mar. 13, 2018) (finding that "disciplinary action decisions resulting in loss of good conduct time are not cognizable in a Bivens action"). Because Petitioner did not lose any good credit time,

though, "there is no challenge to the fact or length of his confinement." See Martinez v. Warden, No. 2:16cv31, 2017 WL 988661, at *7 (N.D.W. Va. Feb. 16, 2017), report and recommendation adopted, 2017 WL 988660 (N.D.W. Va. Mar. 14, 2017). The remainder of the Court's findings in the *Memorandum Opinion and Order Adopting in Part and Rejecting in Part Preliminary Report and Recommendation* remain unchanged by this Amended Memorandum Opinion and Order.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Amended Memorandum Opinion and Order to counsel of record and the pro se Petitioner, via certified mail, return receipt requested.

DATED: March 24, 2020

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE